

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS,)	
INC.'S APPLICATION TO)	CASE NO. 97-074
RESTRUCTURE RATES)	

O R D E R

On May 22, 1997, MCI Telecommunications, Inc. and MCImetro Access Transmissions Services, Inc. (collectively, "MCI") filed with the Commission a motion requesting dismissal of this case, without prejudice, or, in the alternative, suspension of this proceeding pending resolution of Administrative Case No. 360.¹ On May 29, 1997, American Communications Services, Inc., American Communications Services of Louisville, Inc., and American Communications Services of Lexington, Inc. (collectively, "ACSI") filed with the Commission a similar motion.

In its motion, MCI correctly states that, as a result of the Commission's July 20, 1995 decision in Case No. 94-121, BellSouth is under price cap regulation rather than rate-of-return regulation.² MCI contends that "allowing BellSouth to raise residential rates premised on the impending rise of local competition will not only violate the Price Cap Order on its face, but also the philosophical underpinnings of that Order."³ MCI argues

¹ Administrative Case No. 360, Inquiry Into Universal Service and Funding Issues.

² See Case No. 94-121, Application of BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company to Modify its Method of Regulation.

³ MCI Motion at 6.

that "the recombination provisions of which BellSouth complains are some of the primary aspects of the Act, the FCC's Access Charge Reform Proceeding, and the Commission's Orders pursuant thereto, which provide a chance for local exchange competition to become viable."⁴ Furthermore, MCI contends that "BellSouth's angst over this issue is created by the possibility of impending local competition."⁵

Finally, MCI asserts that "the aggregate negative impact imposed by BellSouth's proposed residential service rate hike will far exceed the benefit which will be secured by BellSouth's commercial customers pursuant to the offered rate reductions."⁶ It contends that "even the short term benefits that will be realized be [sic] BellSouth's commercial customers will be short-lived in light of the negative impacts this targeted rate rebalancing would have on the development of local competition."⁷

ACSI, joining MCI's motion, states, as additional grounds in support of its motion that "[t]he Commission should not now abandon the three year price cap provided for in the Price Cap Order simply because the competition which the Commission acknowledged was the quid pro quo for granting BellSouth regulatory flexibility has now materialized."⁸ ACSI argues that "the 'prospect' of local exchange competition is exactly

⁴ Id. at 4.

⁵ Id. at 5.

⁶ Id.

⁷ Id.

⁸ ACSI Motion at 2.

what BellSouth is confronting.”⁹ ACSI states that it “can assure the Commission that the ‘prospect’ of competition which BellSouth believes should persuade the Commission to abandon the three year residential rate cap is yet to be fully born.”¹⁰ ACSI, claiming that its market is negligible, contends that there is “absolutely no basis in fact for the Commission to prematurely abandon the residential rate cap which it adopted in the Price Cap Order.”¹¹

On May 30, 1997, BellSouth filed with the Commission its response to the motions of MCI and ACSI. In its response, BellSouth states that it “believes, and will demonstrate through its testimony, that the unforeseen and extraordinary circumstances regarding the pricing and recombination of unbundled network elements compel the changes it is seeking.”¹² Moreover, it contends that it has a right to be heard on its Applications and Motion because “BellSouth has acted upon the Commission’s advice, and because the Commission has the authority to modify previous orders.”¹³ Finally, BellSouth questions MCI’s standing in this matter. Its intervention, BellSouth states, “appears to be for the sole purpose of using the regulatory process to enhance its competitive position.”¹⁴

⁹ Id.

¹⁰ Id.

¹¹ Id. at 3.

¹² BellSouth Motion at 3.

¹³ Id.

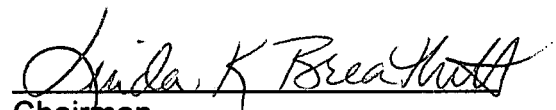
¹⁴ Id.

The Commission, having reviewed MCI's and ACSI's motions and being otherwise sufficiently advised, finds that the motions should be denied because this case involves a dispute of material facts that is ripe for public hearing. Dismissal or suspension of this case is therefore inappropriate. The issues raised in the motions concern the substance of BellSouth's application. Decisions reached by the Commission in this proceeding will not foreclose consideration of the issues in Administrative Case No. 360.

IT IS THEREFORE ORDERED that MCI's and ACSI's motions to dismiss this case, without prejudice, or, alternatively, to suspend this case pending resolution of Administrative Case No. 360 are hereby denied.

Done at Frankfort, Kentucky, this 11th day of June, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director